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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/644,688	08/19/2003	Burkhard Stock	70995	6725
23872	7590	06/28/2005	EXAMINER	
MCGLEW & TUTTLE, PC			BROADHEAD, BRIAN J	
P.O. BOX 9227			ART UNIT	PAPER NUMBER
SCARBOROUGH STATION				
SCARBOROUGH, NY 10510-9227			3661	

DATE MAILED: 06/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/644,688	STOCK ET AL.	
	Examiner	Art Unit	
	Brian J. Broadhead	3661	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 07 October 2004.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-7 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) 1-4 is/are allowed.
 6) Claim(s) 5 and 6 is/are rejected.
 7) Claim(s) 7 is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 19 August 2003 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>8-19-2003</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bertsis, 6,198,996, in view of Leatherwood et al., 4,413,522.

3. Bertsis discloses and evaluation and control unit(2); using the evaluating and control unit to evaluate the acceleration forces acting on the motor vehicle on lines 30-35, on column 5; providing a handset connecting to the evaluation and control unit by which a breath alcohol concentration of a user is measure and is sent as a signal to the evaluating and control unit, and activating a relay or switch by the evaluating and control unit for either interrupting or closing a circuit to a starter of the motor vehicle as a function of the signal by opening or closing a switch on lines 17-27, on column 16.

Bertsis does not disclose explicitly an acceleration sensor; measuring the acceleration forces on the motor vehicle with the acceleration sensor at preset time intervals as time dependant functions; and determining a frequency spectrum of the functions with the evaluating and control unit on the basis of a Fourier analysis. Leatherwood et al. teach an acceleration sensor on line 11, on column 2; measuring the acceleration forces on the motor vehicle with the acceleration sensor at preset time intervals as time dependant functions on lines 11-15 and 25-29, on column 2; and determining a

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frequency spectrum of the functions with the evaluating and control unit on the basis of a Fourier analysis on lines 53-68, on column 9. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the teachings of Leatherwood et al. in the invention of Bertsis because such modification would provide a way to method to determine the ride quality that Bertsis discloses monitoring on lines 30-35, on column 5.

Allowable Subject Matter

4. Claims 1 through 4 are allowed.
5. Claim 7 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
6. The following is a statement of reasons for the indication of allowable subject matter: The prior art of record does not disclose determining a frequency spectrum of the functions with the evaluating and control unit on the basis of a Fourier analysis; if a preset percentage of the frequency spectrum is below a set limit frequency, storing, with the evaluating and control unit, information indicating that the motor vehicle was moved; and if the preset percentage of the frequency spectrum is not below the set limit frequency, storing, with the evaluating and control unit information indicating that the motor vehicle was not moved.

Conclusion

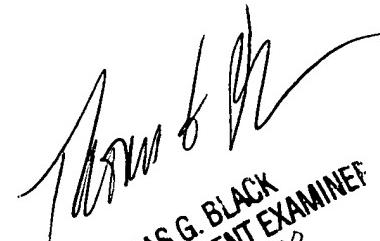
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian J. Broadhead whose telephone number is 571-272-6957. The examiner can normally be reached on Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Black can be reached on 571-272-6956. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


BJB


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